

APPENDIX

Sent to Governor

(April 9, 1979)

S.B. 63
S.B. 166
S.B. 348
S.B. 356
S.B. 418
S.B. 452
S.B. 556
S.B. 584
S.B. 978

Sent to Comptroller

(April 9, 1979)

S.B. 918

Signed by Governor

(April 6, 1979)

H.B. 1272
S.B. 173
S.B. 419

Effective immediately
Effective immediately
Effective August 27, 1979

FIFTY-FIRST DAY

(Tuesday, April 10, 1979)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Absent-excused: Truan.

A quorum was announced present.

The Reverend Floyd L. Vick, First United Methodist Church, Luling, offered the invocation as follows:

As we begin this day we pause to ponder the thoughts of the Psalmist as he said, "When I look at Thy heavens, the work of Thy fingers, the moon and the stars which Thou hast established; what is man that Thou art mindful of him,...Yet Thou hast made him little less than God,...Thou hast given him dominion over the works of Thy hands..." This awesome privilege and responsibility granted to us drives us to our knees in a prayer of thanksgiving and a seeking of Thine Divine guidance. Accept our expressions of thanks and grant us this day the insights, determination and motivation to accomplish that which will be pleasing to Thee and helpful to our fellow man. In His Name, we pray AMEN.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Truan was granted leave of absence for today on account of important business on motion of Senator Clower.

CO-AUTHOR OF SENATE BILL 793

On motion of Senator Vale and by unanimous consent, Senator Price will be shown as Co-author of **S.B. 793**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 44

On motion of Senator Vale and by unanimous consent, Senator Price will be shown as Co-author of **S.J.R. 44**.

SENATE BILLS AND RESOLUTION ON FIRST READING

On motion of Senator Schwartz and by unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 1238 by Schwartz Natural Resources
Amending Section 12.009 of Parks and Wildlife Code to authorize appropriation of funds for fishery development and statistical studies, and declaring an emergency.

S.B. 1239 by Schwartz Natural Resources
Relating to the authority of a county to close a public beach for certain purposes.

S.B. 1240 by Mauzy State Affairs
Relating to collective bargaining rights of certain public employees.

S.B. 1241 by Farabee Jurisprudence
Relating to a term of imprisonment for failure to pay a fine and costs for an offense for which no imprisonment is authorized.

S.B. 1242 by Short Intergovernmental Relations
Relating to the compensation of the judge of the 106th Judicial District.

S.B. 1243 by Snelson Intergovernmental Relations
Relating to the State Commission for the Blind.

S.C.R. 68 by Mauzy Jurisprudence
Requesting the House to return **S.B. 287** for further consideration.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 1135, To Committee on Jurisprudence.
H.B. 1436, To Committee on Jurisprudence.
H.B. 1286, To Committee on Education.
H.B. 563, To Committee on Natural Resources.
H.B. 1088, To Committee on Economic Development.
H.B. 43, To Committee on Jurisprudence.
H.B. 1811, To Committee on Intergovernmental Relations.
H.B. 1917, To Committee on Jurisprudence.
H.B. 1418, To Committee on Natural Resources.
H.B. 1731, To Committee on State Affairs.
H.B. 1381, To Committee on Natural Resources.
H.B. 244, To Committee on Jurisprudence.
H.B. 1494, To Committee on State Affairs.
H.B. 12, To Committee on Jurisprudence.
H.B. 671, To Committee on Jurisprudence.

BILL SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 466 (Signed subject to Sec. 49a,
Article III, Constitution of
State of Texas)

SENATE BILL 51 WITH HOUSE AMENDMENT

Senator Traeger called **S.B. 51** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Substitute the following for S.B. No. 51 - Reyes

A BILL TO BE ENTITLED

AN ACT

relating to mixed beverage establishments in hotels.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28.01(b), Alcoholic Beverage Code, as amended, is amended to read as follows:

(b) The holder of a mixed beverage permit for an establishment in a hotel may deliver mixed beverages, including wine and beer, to individual rooms of the hotel or to any other location in the hotel building or grounds except a parking

area or the licensed premises of another alcoholic beverage establishment, without regard to whether the place of delivery is ~~[hotel rooms are]~~ part of the licensed premises. A permittee in a hotel may allow a patron or visitor to enter or leave the licensed premises, even though the patron or visitor possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 474 ON SECOND READING

The President laid before the Senate on its second reading and passage to engrossment (The bill having been read second time on Thursday, April 5, 1979, with an amendment by Senator Santiesteban pending and consideration having been postponed until 11:00 o'clock a.m., Tuesday, April 10, 1979):

S.B. 474, Relating to alcoholic beverage regulations relating to age.

Question - Shall the pending amendment be adopted?

On motion of Senator Santiesteban and by unanimous consent, the pending amendment was withdrawn.

Senator Mengden offered the following amendment to the bill:

Amend S.B. No. 474 by striking all below the enacting clause and substituting as follows:

SECTION 1. Section 39.31, Alcoholic Beverage Code, is amended to read as follows:

Sec. 39.31. SALES TO MINORS. No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor to a person under 19 [48] years of age unless that minor presents with his prescription the written consent of his parent or guardian. The person making the sale shall file the written consent with the prescription.

SECTION 2. Section 40.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 40.05. PROHIBITED ACTIVITIES. No physician may:

- (1) prescribe liquor for any purpose unless he holds a physician's permit;
- (2) prescribe liquor for other than medicinal purposes;
- (3) issue prescriptions for liquor to any person without first making a physical examination of the patient to determine the disease or ailment afflicting him;
- (4) issue a prescription which does not contain all the information required by this chapter written in the English language;

- (5) accept any sort of compensation or guarantee as to income or material benefit from a holder of a medicinal permit for writing a prescription;
- (6) prescribe more than one pint of liquor for a person in any one day;
- (7) prescribe liquor for any person showing evidence of intoxication;
- (8) prescribe liquor for any person under any name other than the true name of the person for whom the liquor is intended;
- (9) prescribe liquor for any person under the age of 19 ~~[18]~~ years unless he has the written consent of the person's parent or guardian;
- (10) issue more than 100 prescriptions for liquor in any period of 90 days, beginning from the date designated by the physician in any order for prescription forms placed with the commission;
- (11) fail or refuse to make and keep for a period of two years any record of prescriptions issued for liquor as required by the commission;
- (12) fail to make reports required by the commission; or
- (13) fail to divulge information or produce records of the issuance of prescriptions when requested to do so by a representative of the commission or by any peace officer or any county or district attorney.

SECTION 3. Section 61.71(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

- (1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;
- (2) was finally convicted for violating a penal provision of this code;
- (3) was finally convicted of a felony while holding an original or renewal license;
- (4) made a false statement or a misrepresentation in his original application or a renewal application;
- (5) knowingly sold, served, or delivered beer to a person under 19 ~~[18]~~ years of age;
- (6) sold, served, or delivered beer to a person showing evidence of intoxication;
- (7) sold, served, or delivered beer at a time when its sale is prohibited;
- (8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;
- (9) possessed on the licensed premises, or on adjacent premises directly or indirectly under his control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05 of this code;
- (10) does not have at his licensed premises running water, if it is available, and separate toilets for both sexes which are properly identified;
- (11) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;
- (12) employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premises consumption;

(13) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule promulgated under Section 5.40 of this code, or accepted a benefit from an act prohibited by any of those sections or rules;

(14) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(15) permitted the use or display of his license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(16) maintained blinds or barriers at his place of business in violation of this code;

(17) conducted his business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(18) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

(19) purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license;

(20) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(21) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(22) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while his license was under suspension;

(23) purchased, possessed, stored, sold, or offered for sale beer in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(24) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(25) imported beer into this state except as authorized by Section 107.07 of this code;

(26) occupied premises in which the holder of a manufacturer's or distributor's license had an interest of any kind;

(27) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(28) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by his license, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(29) is residually domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05 of this code, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) is residually domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code.

SECTION 4. Section 61.74(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general, local, or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule or regulation promulgated under Section 5.40 of this code;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any beer he sold, stored, or transported;

(7) refused to permit or interfered with an inspection of his licensed premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of beer outside the county or counties in which he was authorized to sell beer by his license;

(9) purchased, sold, offered for sale, distributed, or delivered beer while his license was under suspension;

(10) permitted the use of his license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement in his original application or a renewal application;

(12) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(13) misrepresented any beer sold by him to a retailer or to the public;

(14) employed a person under 18 years of age to sell, deliver, or distribute beer, or to assist in doing so;

(15) knowingly sold or delivered beer to a person under 19 ~~18~~ years of age other than to a licensee or permittee purchasing or accepting delivery of the beer as an authorized activity of the license or permit; or

(16) purchased, possessed, stored, sold, or offered for sale beer in an original package bearing a brand or trade name of a manufacturer other than the brand or trade name of the manufacturer shown on the container.

SECTION 5. Sections 71.03(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) The sale of beer by a holder of a retail dealer's off-premise license who also holds a package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

(1) the hours of sale and delivery;

(2) blinds and barriers;

(3) employment of ~~or sales and deliveries to~~ persons under the age of 18 ~~or sales and deliveries to minors~~;

(4) sales and deliveries on Sunday; and

(5) advertising.

(d) The sale of beer by a holder of a retail dealer's off-premise license who also holds a wine only package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

- (1) blinds and barriers;
- (2) employment of ~~or sales and deliveries to~~ persons under the age of 18 or sales and deliveries to minors;
- (3) delivery to the licensee or permittee on Sunday; and
- (4) advertising.

SECTION 6. Section 106.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 106.01. DEFINITION. In this code ~~chapter~~, "minor" means a person under 19 ~~18~~ years of age.

SECTION 7. Section 106.02, Alcoholic Beverage Code, is amended by adding Subsection (d) to read as follows:

(d) A minor who purchases an alcoholic beverage does not commit an offense if the minor is a holder of a license or permit purchasing the alcoholic beverage as an authorized activity of the license or permit.

SECTION 8. Section 106.03(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A person who sells a minor an alcoholic beverage does not commit an offense if:

(1) the minor falsely represents himself to be 19 ~~18~~ years old or older by displaying an apparently valid Texas driver's license containing a physical description consistent with his appearance for the purpose of inducing the person to sell him an alcoholic beverage; or

(2) the minor is a holder of a license or permit purchasing the alcoholic beverage as an authorized activity of the license or permit.

SECTION 9. Section 106.05(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A minor may possess an alcoholic beverage:

(1) while on the premises of a licensee or permittee if he is an employee of the licensee or permittee and the employment is not prohibited by this code; ~~or~~

(2) if he is in the presence of an adult parent, guardian, or spouse, or other adult to whom he has been committed by a court; or

(3) if he is a holder of a license or permit possessing the alcoholic beverage as an authorized activity of the license or permit.

SECTION 10. Section 106.06(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A person may purchase an alcoholic beverage for or give an alcoholic beverage to a minor if:

(1) he is the minor's adult parent, guardian, or spouse, or an adult in whose custody the minor has been committed by a court, and he is visibly present when the minor possesses or consumes the alcoholic beverage; or

(2) the minor is a holder of a license or permit for whom possession of the alcoholic beverage is an authorized activity of the license or permit.

SECTION 11. Section 106.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A minor commits an offense if he falsely states that he is 19 ~~18~~ years of age or older or presents any document that indicates he is 19 ~~18~~ years of age or older to a person engaged in selling or serving alcoholic beverages.

SECTION 12. Section 106.09(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Subsections (b) and (c) of this section, no person may employ a person under 18 years of age ~~minor~~ to sell, prepare, serve, or otherwise handle liquor, or to assist in doing so.

SECTION 13. Section 106.12(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 19 [~~18~~] years, may apply to the court in which he was convicted to have the conviction expunged.

SECTION 14. Section 107.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A Texas resident may import not more than one quart of liquor for his own personal use without being required to hold a permit. A nonresident of Texas may import not more than a gallon of liquor for his own personal use without being required to hold a permit. A person importing liquor into the state under this subsection must pay the state tax on liquor and affix the required tax stamps. No person under the age of 19 [~~18~~] years and no intoxicated person may import any liquor for personal use into the state.

SECTION 15. Section 109.53, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF PREMISES; SUBTERFUGE OWNERSHIP; ETC. No person who has not been a citizen of Texas for a period of three years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this code. No permit except a brewer's permit, and such other licenses and permits as are necessary to the operation of a brewer's permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of three years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to his attention, to file a suit for such cancellation in a district court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a package store permit or a renewal thereof shall have authority to designate as "premise" and the commission or administrator shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a) of this code. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which

surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No person under the age of 19 [48] years, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a person under the age of 19 years on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the holder. Any package store permittee who shall be injured in his business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee. The provision prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in this code.

SECTION 16. This Act takes effect September 1, 1979.

SECTION 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted.

RECORD OF VOTES

Senators Mauzy, Ogg, Vale and Doggett asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Mengden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by the following vote: Yeas 25, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Williams.

Nays: Doggett, Mauzy, Ogg, Patman, Vale.

Absent-excused: Truan.

SENATE BILL 474 ON THIRD READING

Senator Mengden moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 474** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Williams.

Nays: Doggett, Mauzy, Ogg, Patman, Vale.

Absent-excused: Truan.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 5. (Same as previous roll call)

**COMMITTEE SUBSTITUTE SENATE BILL 490
ON SECOND READING**

Senator Parker asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 490, Relating to longevity pay for investigators of the district attorney's, criminal district attorney's, and county attorney's who are designated as peace officers; and declaring an emergency.

There was objection.

Senator Parker then moved to suspend the regular order of business and take up **C.S.S.B. 490** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Blake, Brooks, Clower, Doggett, Farabee, Harris, Jones of Harris, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Short, Traeger, Vale, Williams.

Nays: Andujar, Braecklein, Creighton, Howard, Jones of Taylor, Mauzy, Price, Snelson.

Absent-excused: Truan.

The bill was read second time and was passed to engrossment.

RECORD OF VOTES

Senators Mauzy and Snelson asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE SENATE BILL 490 ON THIRD
READING**

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 490** be placed on its third reading and final passage.

The motion was lost by the following vote (Not receiving four-fifths vote of the Members of the Senate present): Yeas 19, Nays 10.

Yeas: Brooks, Clower, Doggett, Farabee, Jones of Harris, Kothmann, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Vale, Williams.

Nays: Andujar, Blake, Braecklein, Creighton, Harris, Howard, Jones of Taylor, Mauzy, Snelson, Traeger.

Absent: Longoria.

Absent-excused: Truan.

MESSAGE FROM THE HOUSE

House Chamber
April 10, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT
THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 154 Congratulating the Hale Center girls' basketball team

H.C.R. 155 Congratulating the Plainview girls' basketball team

H.C.R. 156 Congratulating the Slaton girls' basketball team

H.C.R. 157 Congratulating the Nazareth girls' basketball team

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 910 ON THIRD READING

Senator McKnight moved to suspend the regular order of business to take up on its third reading and final passage:

S.B. 910, Relating to the regulation of permanent storage or disposal of radioactive materials.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Mauzy.

Absent-excused: Truan.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria,

McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Brooks, Mauzy.

Absent-excused: Truan.

SENATE BILL 531 ON SECOND READING

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 531, Relating to the classification of certain alien students as residents for purposes of tuition at institutions of higher education; amending Section 54.057 of the Texas Education Code, as amended.

The bill was read second time and was passed to engrossment.

SENATE BILL 531 ON THIRD READING

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 531** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

SENATE BILL 577 ON SECOND READING

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 577, Relating to the powers and duties of the Parks and Wildlife Commission and the Parks and Wildlife Department, certain funds used by the Parks and Wildlife Department, and certain criminal penalties.

The bill was read second time.

Senator Schwartz offered the following committee amendment to the bill:

Amend **S.B. 577** as follows:

(1) By inserting the number "11.03.," at line 8, Section 1, page 1, between the word "sections" and the numbers "11.032"; and

(2) By adding the following paragraph at line 10 on page 1 to read as follows:

"Sec. 11.031. There is in the state treasury a special fund called the game, fish and water safety fund."; and

(3) By substituting the following language in Article 5, Section 1, Subsection 1 thereof on page 11 at line 2 to read as follows:

“(1). Section 62.026; (a)(1), (b), (c), and (d), Parks and Wildlife Code;”

The committee amendment was read and was adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 577 ON THIRD READING

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 577** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE SENATE BILL 1176 ON SECOND READING

On motion of Senator Jones of Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1176, Relating to the gulfward boundaries of counties, cities, towns or villages on the Gulf of Mexico.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1176 ON THIRD READING

Senator Jones of Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1176** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Truan.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE SENATE BILL 580
ON SECOND READING**

Senator Schwartz asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 580, Relating to the authority of the Parks and Wildlife Commission to set the fee for the issuance of certain licenses.

There was objection.

Senator Schwartz then moved to suspend the regular order of business and take up **C.S.S.B. 580** for consideration at this time.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 15, Nays 13.

Yeas: Blake, Braecklein, Creighton, Doggett, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mengden, Moore, Schwartz, Traeger, Vale, Williams.

Nays: Andujar, Clower, Farabee, Howard, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Price, Santiesteban, Short.

Absent: Brooks, Snelson.

Absent-excused: Truan.

SENATE BILL 357 ON THIRD READING

Senator Meier moved to suspend the regular order of business to take up on its third reading and final passage:

S.B. 357, Relating to the regulation of certain business and insurance practices; amending certain provisions of Chapter 17, Business & Commerce Code, as amended.

The motion prevailed by the following vote: Yeas 23, Nays 6.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Short, Traeger, Vale, Williams.

Nays: Clower, Doggett, Jones of Harris, Mauzy, Patman, Schwartz.

Absent: Snelson.

Absent-excused: Truan.

The bill was read third time.

Senator Meier offered the following amendment to the bill:

Amend Section 1 of Senate Bill 357 by striking the language appearing on page 1, lines 3 through 16 and substituting the following:

“Sec. 17.43 CUMULATIVE REMEDIES. The provisions of this subchapter are in addition to any other procedures or remedies provided for in any other law [-], provided, however, that no recovery shall be permitted under both this subchapter and another law of both actual damages and penalties for the same act or practice. A violation of a provision of law other than this subchapter is not in and of itself a violation of this subchapter. An act or practice that is a violation of a provision of law other than this subchapter may be made the basis of any action under this subchapter or is declared by such other law to be actionable under this subchapter. The provisions of this subchapter do not in any way preclude other political subdivisions of this state from dealing with deceptive trade practices.”

The amendment was read.

On motion of Senator Meier and by unanimous consent, the amendment was withdrawn.

Senator Meier offered the following amendment to the bill:

Amend Section 4 of Senate Bill 357 by striking the word “knowingly” from 17.46 (b)(5) at line 6 of page 3 and from 17.46 (b)(7) at line 14 of page 3.

The amendment was read and was adopted.

**VOTE ON ADOPTION OF AMENDMENT TO S.B. 357
RECONSIDERED**

On motion of Senator Meier and by unanimous consent, the vote by which Floor Amendment No. 2 to **S.B. 357** was adopted was reconsidered.

Question - Shall the amendment be adopted?

On motion of Senator Meier and by unanimous consent, the amendment was adopted.

Senator Clower offered the following amendment to the bill:

Amend Senate Bill 357 by adding a subsection (23) to Section 5(b).

“(23) the failure of a person to disclose a past or existing material fact known to him.”

The amendment was read and failed of adoption by the following vote: Yeas 13, Nays 16.

Yeas: Braecklein, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Ogg, Parker, Patman, Schwartz, Traeger, Vale.

Nays: Andujar, Blake, Brooks, Creighton, Farabec, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Snelson, Williams.

Absent: Short.

Absent-excused: Truan.

Question - Shall the bill as amended be finally passed?

RECESS

On motion of Senator Jones of Harris the Senate at 12:17 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

SENATE BILL 357 ON THIRD READING

The Senate resumed consideration of **S.B. 357** on its third reading and final passage.

Question - Shall the bill as amended be finally passed?

Senator Meier offered the following amendment to the bill:

Amend Section 1 of Senate Bill 357 by striking the language appearing on page 1 lines 3 through 16 and substituting the following:

"Sec. 17.43. CUMULATIVE REMEDIES. The provisions of this subchapter are not exclusive. The remedies provided in this subchapter are in addition to any other procedures or remedies provided for in any other law ~~[+]~~, provided, however, that no recovery shall be permitted under both this subchapter and another law of both actual damages and penalties for the same act or practice. A violation of a provision of law other than this subchapter is not in and of itself a violation of this subchapter. An act or practice that is a violation of a provision of law other than this subchapter may be made the basis of an action under this subchapter if the act or practice is proscribed by a provision of this subchapter or is declared by such other law to be actionable under this subchapter. The provisions of this subchapter do not in any way preclude other political subdivisions of this state from dealing with deceptive trade practices."

The amendment was read and was adopted by unanimous consent.

Senator Meier offered the following amendment to the bill:

Amend **S.B. 357** by striking at line 4 page 7 the following language:

"If he has sustained actual damages as a result of any of the following";

And substituting therefore the following:

"Where any of the following constitute a producing cause of actual damages":

The amendment was read and was adopted by unanimous consent.

Senator Meier offered the following amendment to the bill:

Amend Senate Bill 357 as follows:

- (1) On page 6, line 13, strike “[~~4~~]” and insert “(1)”;
- (2) On page 6, line 20, strike “[~~2~~]” and insert the following:
“(2) In construing this subchapter the court shall not be prohibited from considering relevant and pertinent decisions of courts in other jurisdictions.”

The amendment was read and was adopted by unanimous consent.

Senator Meier offered the following amendment to the bill:

Amend Senate Bill 357 as follows:

In Section 5 line 22 page 7 by adding the words “and necessary” after the word “reasonable” and before the word “attorneys”.

In Section 5 line 19 page 8 by adding the words “and necessary” after the word “reasonable” and before the word “attorneys”.

In Section 6 line 25 page 8 by adding the words “and necessary” after the word “reasonable” and before the word “attorneys”.

The amendment was read and was adopted by unanimous consent.

Senator Meier offered the following amendment to the bill:

Amend **S.B. 357** by inserting the following between the word “occurred” and the open bracket on page 11, line 19:

“or in a county in which the defendant or an authorized agent of the defendant personally solicited the transaction made the subject of the action at bar”

The amendment was read.

Senator Doggett offered the following substitute for the pending amendment:

Amend Section 9 of SB 357 to read as follows:

SECTION 9. Section 17.56, Business & Commerce Code, as amended, is amended to read as follows:

Section 17.56. VENUE. An action brought which alleges a claim to relief under Section 17.50 of this subchapter may be commenced in the county in which the person against whom the suit is brought resides, has his principal place of business, or has a fixed and established place of business at the time the suit is brought, or a county from which he has solicited business or in which the alleged act or practice is alleged to have occurred [~~done business~~].

The substitute for the pending amendment was read and failed of adoption by the following vote: Yeas 13, Nays 14.

Yeas: Braecklein, Clower, Doggett, Jones of Harris, Kothmann, Mauzy, Ogg, Parker, Patman, Schwartz, Short, Traeger, Vale.

Nays: Blake, Brooks, Creighton, Farabee, Harris, Howard, Longoria, Meier, Mengden, Moore, Price, Santiesteban, Snelson, Williams.

Absent: Andujar, Jones of Taylor, McKnight.

Absent-excused: Truan.

The pending amendment was then adopted by the following vote: Yeas 19, Nays 8.

Yeas: Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Kothmann, Longoria, Meier, Mengden, Moore, Price, Santiesteban, Short, Snelson, Traeger, Vale, Williams.

Nays: Clower, Doggett, Jones of Harris, Mauzy, Ogg, Parker, Patman, Schwartz.

Absent: Andujar, Jones of Taylor, McKnight.

Absent-excused: Truan.

Senator Meier offered the following amendment to the bill:

Amend Amendment No. 1, Senate Bill 357 by inserting the following new Section 11 of the bill and renumbering all subsequent Sections accordingly:

"Section 11. - This Act shall be applied prospectively only. Nothing in this Act affects, either procedurally or substantively a cause of action that arose either in whole or in part prior to the effective date of this Act."

The amendment was read and was adopted by unanimous consent.

Senator Meier offered the following amendment to the bill:

Amend **S.B. 357** by striking at Sections 7, Line 3 thru line 20, Page 10 and substituting therefore the following, renumbering the remaining Sections:

"Section 17.50B. Damages: Defenses. (a) In an action brought under Section 17.50 of this subchapter, it is a defense to the award of any damages or attorneys' fees if the defendant proves that he gave reasonable and timely notice to the plaintiff of the defendant's reliance on:

(1) factual data or opinion relating to the particular good or service in question obtained from official government records, if the factual data or opinion was false or inaccurate and the defendant did not know, and could not reasonably have known, of the falsity or inaccuracy of this factual data or opinion;

(2) factual data or opinion relating to the particular good or service in question obtained from another source, if the factual data or opinion was false or inaccurate and the defendant did not know, and could not reasonably have known, of the falsity or inaccuracy of the factual data or opinion; or

(3) factual data or opinion concerning a test required or prescribed by a government agency if the factual data or opinion from the test was false or inaccurate and the defendant did not know, and could not reasonably have known, of the falsity or inaccuracy of the factual data or opinion.

(b) In asserting a defense under Section 17.50B(a) (1), (2) or (3) above the defendant shall prove the factual data or opinion was a producing cause of the alleged damage. A finding of one producing cause does not bar recovery if other conduct of the defendant not the subject of a defensive finding under Section 17.50B (a) (1), (2) or (3) was a producing cause of damages of the plaintiff.

(c) In a suit where a defense is asserted under Section 17.50B (a)(2) suit may be asserted against the third party supplying the factual data or opinion without regard to privity where the third party knew or should have reasonably

foreseen that the factual data or opinion would be provided to a consumer; provided no double recovery may result.

The amendment was read and was adopted by unanimous consent.

Senator Doggett offered the following amendment to the bill:

Amend SB 357 by adding a new section to read as follows:

Section _____. Subsection (b), Section 17.48, Business & Commerce Code, is amended to read as follows:

“(b) A district or county attorney, with prior written notice to the consumer protection division, may institute and prosecute actions seeking injunctive relief, civil penalties, and restitution orders in the manner provided in Section 17.47 of ~~(under)~~ this subchapter, after complying with the prior contact provisions of Subsection (a) of Section 17.47 of this subchapter. On request, the consumer protection division shall assist the district or county attorney in any action taken under this subchapter. If an action is prosecuted by a district or county attorney alone, he shall make a full report to the consumer protection division including the final disposition of the matter. No district or county attorney may bring an action under this section against any licensed insurer or licensed insurance agent transacting business under the authority and jurisdiction of the State Board of Insurance unless first requested in writing to do so by the State Board of Insurance, the commissioner of insurance, or the consumer protection division pursuant to a request by the State Board of Insurance or commissioner of insurance. Civil penalties awarded pursuant to Section 17.47 of this subchapter in suits instituted by a district or county attorney as provided for by this subsection, shall be paid to the county in which the action was instituted.”

DOGGETT
TRUAN

The amendment was read and failed of adoption by the following vote:
Yeas 11, Nays 19.

Yeas: Braecklein, Brooks, Clower, Doggett, Kothmann, Mauzy, Parker, Patman, Schwartz, Short, Vale.

Nays: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Snelson, Traeger, Williams.

Absent-excused: Truan.

Senator Mauzy offered the following amendment to the bill:

Amend SB 357 by adding a new Section 5A, to read as follows:

Sec. 5A. The Business and Commerce Code is amended by adding Section 17.49A to read as follows:

Section 17.49A Notwithstanding any other provisions of this subchapter a consumer may revoke his acceptance of goods where a non-conformity substantially impairs the value of said goods. A non-conformity substantially impairs the value of goods if

(a) after a reasonable number of attempts by the seller to correct or repair the non-conformity over a reasonable period of time, the goods continue to evidence a defect or defects, whether or not previously manifested, that individually or cumulatively impair substantially the use or enjoyment of the goods; or

(b) the non-conformity is such that even if remedied, the consumer may still have a reasonable apprehension in the light of the number and nature of the non-conformities that the defect or defects will recur or other substantial defects will be discovered.

The amendment was read and failed of adoption by the following vote: Yeas 11, Nays 17.

Yeas: Braecklein, Clower, Doggett, Jones of Harris, Kothmann, Mauzy, Ogg, Parker, Patman, Schwartz, Vale.

Nays: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Traeger, Williams.

Absent: Short, Snelson.

Absent-excused: Truan.

Senator Parker offered the following amendment to the bill:

Amend Section 5 of SB 357 by amending subsection (b)(1) of Section 17.50 to read:

(b) In a suit filed under this section, each consumer who prevails may obtain:

(1) three times the amount of actual damages plus court costs and attorney's fees reasonable in relation to the amount of work expended provided however that in no event shall treble damages be awarded where any of the affirmative defenses set forth in Section 17.50A of this subchapter has been established;

The amendment was read and failed of adoption by the following vote: Yeas 13, Nays 17.

Yeas: Braecklein, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Ogg, Parker, Patman, Schwartz, Vale.

Nays: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Absent-excused: Truan.

Senator Jones of Harris offered the following amendment to the bill:

Amend SB 357 by striking Section 2 thereof, and renumbering all subsequent sections accordingly.

The amendment was read and failed of adoption by the following vote: Yeas 12, Nays 17.

Yeas: Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Ogg, Parker, Patman, Schwartz, Vale.

Nays: Andujar, Blake, Braecklein, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Snelson, Traeger, Williams.

Absent: Short.

Absent-excused: Truan.

SENATOR ANNOUNCED PRESENT

Senator Truan who had previously been recorded as "Absent-Excused" was announced "Present".

Senator Schwartz offered the following amendment to the bill:

Amend SB 357 by striking Sec. 3. thereof and substituting the following new Section 3.

SECTION 3. Section 17.45, Business & Commerce Code, as amended, is amended by adding Subsections (10) and (11) to read as follows:

(10) "Actual damages" means pecuniary loss including reasonably foreseeable incidental and consequential damages.

(11) "Bona fide error" means an error that is not committed knowingly or with reckless disregard for the truth including, but not limited to, a clerical error.

The amendment was read and failed of adoption by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 16, Nays 15.

Yeas: Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Ogg, Parker, Patman, Schwartz, Short, Snelson, Traeger, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Williams.

On motion of Senator Meier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

Senator Meier moved the bill as amended be finally passed.

Senator Jones of Harris made the substitute motion that **S.B. 357** be committed to the Committee on Human Resources.

The motion to commit was lost by the following vote: Yeas 8, Nays 22, Present-Not Voting 1.

Yeas: Clower, Doggett, Jones of Harris, Mauzy, Parker, Patman, Schwartz, Truan.

Nays: Andujar, Blake, Braecklein, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Vale, Williams.

Present-Not Voting: Brooks.

Question recurring on the final passage of the bill as amended, the bill as amended was finally passed by the following vote: Yeas 23, Nays 8.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Vale, Williams.

Nays: Clower, Doggett, Jones of Harris, Mauzy, Parker, Patman, Schwartz, Truan.

SENATE RESOLUTION 403

Senator Creighton offered the following resolution:

WHEREAS, Some people seem to think doctors and nurses can put scrambled eggs back into the shell; this morning came the announcement of a major reorganization in the offices of Comptroller of Public Accounts; the changes began when Bob Bullock entered an Austin Hospital today for surgery on his hemorrhoids; and

WHEREAS, It is a well known rumor that since a particular part of his anatomy was worked over by an Austin grand jury, he has been troubled by the recurring nightmare of rising to make a public address and finding much of himself still seated; and

WHEREAS, A wise old sage well acquainted with such matters once said never trust a man with short legs as his brains are too near his bottom, it is the fervent hope of the Texas Senate that his doctors will exercise due caution in the delicate repairs at hand, or on cheek in this case, so that our Comptroller's wit and fast-thinking remain intact; and

WHEREAS, Mr. Bullock assures us that this medical procedure will not materially change the revenue forecast; now, therefore, be it

RESOLVED, That the Members of the Senate of the 66th Legislature hereby extend best wishes to The Honorable Bob Bullock for a full and speedy recovery; and, be it further

RESOLVED, That a copy of this Resolution be prepared under the official Seal of the Senate as a token of the shared concern of the Members of the Texas Senate for their Comptroller's state of health.

CREIGHTON
PARKER

The resolution was read.

On motion of Senator Harris and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Creighton and by unanimous consent, the resolution was considered immediately and was adopted.

MESSAGE FROM THE HOUSE

House Chamber
April 10, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT
THE HOUSE HAS PASSED THE FOLLOWING:

S.B. 779 Relating to creation of a commission to coordinate celebrations of the 150th anniversary of Texas' Independence as a republic and progress as a state. (With amendment)

S.B. 897 Relating to retirement credit for service on domestic relations courts and special juvenile courts for judges of certain district courts and appellate courts.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolutions:

H.C.R. 155
H.C.R. 156
H.C.R. 154
H.C.R. 147

MOTION RELATIVE TO LOCAL AND UNCONTESTED CALENDAR PROCEDURE

Senator Jones of Harris made the following motion:

I move that the bills and resolutions listed on the Local and Uncontested Calendar be set as Special Order for 8:30 o'clock a.m. Wednesday morning and considered in the order listed, with the understanding that a bill or resolution removed from the Calendar will not be considered. I further move that the Three-Day Rule be suspended with respect to bills on the Local and Uncontested Calendar that are engrossed on Wednesday morning.

The motion prevailed by the following vote: Yeas 31, Nays 0.

MOTION TO RECESS

Senator Schwartz moved the Senate take recess until 8:30 o'clock a.m. tomorrow.

The motion was lost by the following vote: Yeas 11, Nays 20.

Yeas: Clower, Doggett, Jones of Harris, Mauzy, Parker, Patman, Price, Santiesteban, Schwartz, Short, Truan.

Nays: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Snelson, Traeger, Vale, Williams.

**COMMITTEE SUBSTITUTE SENATE BILL 359
ON THIRD READING**

Senator Creighton moved to suspend the regular order of business to take up on its third reading and final passage:

C.S.S.B. 359, Relating to the definition of credit terms; amending subdivision (h), Article 7.01, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-7.01, Vernon's Texas Civil Statutes).

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Short, Snelson, Traeger, Vale, Williams.

Nays: Clower, Doggett, Mauzy, Patman, Schwartz, Truan.

The bill was read third time.

Senator Doggett offered the following amendment to the bill:

Amend CSSB 359 by adding a new Section 2 as follows and renumbering the remaining sections.

SECTION 2. This Act shall be cited as the "Creighton-Fondren Act" and all contracts or other documents provided to purchasers wherein the fee provided hereby is charged shall refer to it as the "Creighton-Fondren Doc. Fee."

The amendment was read.

On motion of Senator Doggett and by unanimous consent, the amendment was withdrawn.

The bill was finally passed by the following vote: Yeas 22, Nays 9.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Kothmann, Mauzy, Patman, Schwartz, Short, Truan, Vale.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 147 - (Santiesteban): Extending congratulations to promoters and teachers of foreign languages and recognizing April 6, 1979, as Foreign Language Day in Texas.

H.C.R. 154 - (Farabee): Extending congratulations to Hale Center girls' basketball team.

H.C.R. 155 - (Farabee): Extending congratulations to Plainview girls' basketball team.

H.C.R. 156 - (Farabee): Extending congratulations to Slaton girls' basketball team.

S.R. 398 - By Traeger: Extending welcome to students from the Center for Intensive Academics and Counseling, Seguin.

S.R. 399 - By Clower: Extending welcome to Lori Sudderth.

S.R. 400 - By Clower: Extending welcome to Mayor Charles G. Clack, City of Garland.

S.R. 401 - By Kothmann: Extending congratulations to "Jump Pappy" Joe Long.

S.R. 404 - By Doggett: Extending congratulations to students of Anderson High School youth and government clubs.

S.R. 405 - By Doggett: Extending congratulations to Mr. and Mrs. Allen Harrell.

S.R. 406 - By Doggett: Extending welcome to Amber Hagy.

RECESS

On motion of Senator Schwartz the Senate at 5:22 o'clock p.m. took recess until 8:30 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor

(April 10, 1979)

H.C.R. 149

FIFTY-FIRST DAY

(Continued)

(Wednesday, April 11, 1979)

AFTER RECESS

The Senate met at 8:30 o'clock a.m. and was called to order by Senator Jones of Harris.

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Jones of Harris in Chair) announced that the time had arrived for the consideration of the Local and Uncontested Bills Calendar in accordance with the provisions of **S.R. 16**. (Bills having been set as Special Order and Constitutional Three-Day Rule suspended by vote of 31-0 on April 10, 1979.)

The following bills were laid before the Senate, read second time, amended (where applicable), passed to engrossment, read third time and passed: (Sponsor and vote on final passage indicated after caption of each bill. When amended, vote on final passage follows the amendment.)

C.S.S.B. 66 (Clower) Relating to accident reports filed with the Industrial Accident Board. (vv) Blake "Nay"

S.B. 233 (Mauzy) Relating to cancellation of workers' compensation insurance policies. (30-1) Blake "Nay"

S.B. 267 (Harris) Relating to limitations on real estate loans by domestic insurance companies. (31-0)

S.B. 340 (Farabee) Relating to continuous filing of notice of becoming a subscriber to the workers' compensation law.

Senator Farabee offered the following amendment to the bill:

Amend Senate Bill 340 by inserting after the caption the following:

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:"

The amendment was read and was adopted.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

S.B. 457 (Santiesteban) Relating to the filing of briefs in criminal cases. (vv)

S.B. 458 (Santiesteban) Relating to the time period during which the State may amend its motion to revoke probation. (vv)

S.B. 591 (Mauzy) Relating to investments in Israel Bonds by certain insurers. (29-2) Blake, Mengden "Nay"

S.B. 619 (Harris) Relating to the expenses of examinations conducted by the State Board of Insurance.

Senator Harris offered the following committee amendment to the bill:

Amend **S.B. 619** to insert after the caption:

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:"

The committee amendment was read and was adopted.

Senator Harris offered the following committee amendment to the bill:

Amend Section 1 of **S.B. 619**, line 3, page 2 to add, after the word "annually," the following:

"Provided further, that the amount of all such assessments paid in each taxable year to or for the use of the State of Texas by any insurance corporation

or association hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance corporation or association for such taxable year.”

The committee amendment was read and was adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

S.B. 625 (Howard) Relating to the report to the Governor by the State Board of Insurance. (31-0)

C.S.S.B. 718 (Longoria) Authorizing certain cities to construct a toll bridge across the Rio Grande. (28-3) Mauzy, Jones of Harris, Howard “Nay”

S.B. 760 (Jones of Harris) Relating to the Probate Court No. 3 of Harris County and providing for a presiding judge of probate courts in Harris County. (31-0)

S.B. 843 (Jones of Harris) Creating the County Criminal Court at Law No. 10 of Harris County. (31-0)

C.S.S.B. 844 (Jones of Harris) Relating to providing uniform adult probation and supervision of persons convicted of criminal offenses.

Senator Jones of Harris offered the following amendment to the bill:

Amend **C.S.S.B. 844** by striking Subsection (b) of Section 6a. and substitute in lieu thereof the following:

“(b) The court shall distribute the fees received under Subsection (a) of this Section to the county or counties in which the court has jurisdiction for use in administering the probation laws. In instances where a district court has jurisdiction in two or more counties, the court shall distribute the fees received to the counties in proportion to population as prescribed in Subsection (g) of Section 10 of Article 42.12 of this Code.”

The amendment was read and was adopted.

On motion of Senator Jones of Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

S.B. 876 (Farabee) Relating to information contained in the Texas Register and the Administrative Code. (30-1) Mauzy “Nay”

S.B. 890 (Parker) Relating to the closing of a street or alley in a general law city or town. (31-0)

C.S.S.B. 891 (Parker) Relating to membership in the appointive officer or employee class of the Employees Retirement System. (vv)

S.B. 924 (Longoria) Relating to citrus marketing associations. (31-0)

C.S.S.B. 952 (Farabee) Relating to the punishment for terroristic threats, trespasses and false alarms when electric utility property is involved. (vv)

S.B. 957 (Braecklein) Relating to the definition of abandoned motor vehicle.

Senator Braecklein offered the following amendment to the bill:

Amend S.B. No. 957 by striking line 32 of Section 1, Subsection (e) and substituting the following:

Sec. 1

“(e)that has remained impounded for [20] 30 days from the date of receipt of”

The amendment was read and was adopted.

On motion of Senator Braecklein and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

S.B. 963 (Doggett) Relating to sufficiency of evidence in claims or accounts. (31-0)

S.B. 965 (Doggett) Relating to the collection of judgments by court proceedings. (31-0)

S.B. 1025 (Parker) Relating to the accessibility of information held by certain governmental bodies. (31-0)

S.B. 1026 (Mauzy) Relating to the Teachers' Professional Practices Commission.

Senator Mauzy offered the following amendment to the bill:

Amend **S.B. 1026** by deleting Section 3 and renumbering the following section.

The amendment was read and was adopted.

On motion of Senator Mauzy and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

S.B. 1066 (Mauzy) Relating to service of process on a nonresident employer. (31-0)

S.B. 1067 (Mauzy) Relating to the definition of doing business in the State for service of process. (31-0)

S.B. 1068 (Ogg) Relating to sand dune protection.

Senator Ogg offered the following committee amendment to the bill:

Amend **S.B. 1068** by striking Section 63.011 on pages 2 and 3 and substituting in its place the following language:

Section 63.011. ESTABLISHING DUNE PROTECTION LINE

(a) After notice and hearing, the Commissioner's Court of any county bordering on the Gulf of Mexico may establish a dune protection line for the purpose of preserving sand dunes on the barrier islands, peninsula and adjacent mainland areas within the county that offer a defense against storm water and erosion of the shoreline.

(b) The commissioner may adopt a rule establishing a dune protection line.

(c) If a commissioners court has established a dune protection line that conflicts with a line established by the commissioners rule, the dune protection line located the greatest distance from the water's edge shall be in effect for the purposes of this chapter.

The committee amendment was read and was adopted.

On motion of Senator Ogg and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

S.B. 1069 (Ogg) Relating to civil penalty for violating the Open Beaches Act. (31-0)

S.B. 1071 (Ogg) Relating to regulation of traffic on beaches. (vv)

S.B. 1104 (Schwartz) Relating to regulation of animals on beaches.

Senator Schwartz offered the following amendment to the bill:

Amend Senate Bill 1104 by striking everything below the enacting clause and substituting in lieu thereof the following:

“Section 1. Section 61.122, Natural Resources Code is amended to read as follows:

Sec. 61.122. Regulation of traffic, prohibition of litter, possession of animals on beaches, and swimming in passes to and from the Gulf of Mexico.

(a) The commissioners court of a county bordering on the Gulf of Mexico or its tidewater limits, by order, may regulate motor vehicle traffic on any beach within the boundaries of the county and may prohibit the littering of the beach and may define the term “littering”.

(b) The commissioners court of a county bordering the Gulf of Mexico or its tidewaters, by order, may regulate the possession of animals on the beach within its boundaries, including, but not limited to, prohibiting animals to run at large on said beach.

(c) The commissioners court of a county bordering the Gulf of Mexico or its tidewaters, by order, may regulate swimming in passes leading to and from the Gulf of Mexico, located within its boundaries, including, but not limited to prohibiting swimming in said passes and posting signs notifying persons of such regulation or prohibition.

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted.

Senator Schwartz offered the following amendment to the bill:

Amend Senate Bill 1104 by striking everything above the enacting clause and substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to county authority to regulate traffic; prohibition of litter; the possession of animals on beaches and swimming in certain passes; and amending Section 61.122, Natural Resources Code.

The amendment was read and was adopted. (31-0)

S.B. 1130 (Schwartz) Relating to the eligibility of former judges to remain on the Texas Adult Probation Commission. (vv)

C.S.S.B. 1187 (Harris) Relating to application for a place on the primary ballot. (vv)

S.B. 1189 (Harris) Relating to the time for meeting of primary committee.

Senator Harris offered the following committee amendment to the bill:

Amend S.B. No. 1189 by inserting the words "on or" at the end of line 10.

The committee amendment was read and was adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (vv)

S.B. 1190 (Harris) Relating to canvass of primary elections. (vv)

C.S.S.B. 1191 (Harris) Relating to the method of transmission of primary election results to the State Executive Committee. (vv)

S.B. 1192 (Harris) Relating to distribution of filing fees paid to the state chairman of a political party. (vv)

S.B. 1219 (Moore) Relating to the designation of Prairie View A&M University as a special purpose statewide institution of education for low income and culturally distinct individuals. (31-0)

S.C.R. 29 (Jones of Taylor) Memorializing Congress to reject legislation limiting state regulation or increasing Federal regulation of business of insurance. (vv) Mauzy, Jones of Harris "Nay"

S.C.R. 41 (Parker) Requesting Employees Retirement System of Texas to determine number of members who might be eligible to claim creditable service for previous employment with a county child welfare board. (vv)

S.C.R. 62 (Schwartz) Requesting evaluation reports of results produced by agencies involved with aquaculture and mariculture. (vv)

H.B. 575 (Traeger) Relating to informal applications for absentee ballots. (vv)

H.B. 618 (Moore) Relating to expenditures by the Director of Corrections for burial expense of an inmate. (31-0)